

## EN BANC

**[ A.M. No. P-10-2812[Formerly OCA IPI No. 10-3420-P], August 18, 2020 ]**

**ANONYMOUS COMPLAINT AGAINST CLERK OF COURT V ATTY. ZENALFIE M. CUENCO, COURT INTERPRETER CHRISTIAN V. CABANILLA, COURT STENOGRAPHERS FILIPINAS M. YABUT AND SIONY P. ABCEDE, AND LOCALLY-FUNDED EMPLOYEE ALELI DE GUZMAN, ALL OF THE REGIONAL TRIAL COURT, BRANCH 72, MALABON CITY, AND OFFICER VANISSA L. ASIS OF THE PHILIPPINE MEDIATION CENTER.**

### DECISION

#### PER CURIAM:

This is an administrative case against trial court employees, who, among other offenses, were found to have falsified daily time records (DTRs), attended school during office hours, and lacked the required skills expected of one's position.

#### The Facts

In an undated Letter-Complaint<sup>[1]</sup> from the *Taongbayan ng Pilipinas*, respondents Clerk of Court V Atty. Zenalfie M. Cuenco (Atty. Cuenco), Court Interpreter Christian V. Cabanilla (Cabanilla), Stenographers Filipinas M. Yabut (Yabut) and Siony P. Abcede (Abcede), Local Government-Funded employee Aleli De Guzman (De Guzman), and Mediation Officer Vanissa L. Asis (Asis; collectively, respondents) were the subject of various irregularities in the Malabon City Regional Trial Court (Malabon RTC), Branch 72, as follows.

1. Siya [Atty. Cuenco] po ay isang corrupt ng Branch 72, RTC, Malabon City sapagkat lahat po na dokumento na may pirma niya ay may bayad at walang resibo. Siya po ay may kasabwat na tauhan rig isang detailed ng Munisipyo ng Malabon na si Aleli de Guzman at isang kabit ng pulis ng Malabon. Ginagawa rin po nila ang nasabing opisina na isang law office, kaya po sila ay kumikita ng walang gastos.
2. Pumapasok po ang nasabing abogado sa gusto niyang oras at ito po ay labag sa batas na nakasaad sa kanyang DTR.
3. Pinahihintulutan din po niya ang kanyang Court Interpreter na pumasok sa eskwela ngunit naka-in sa opisina at ito ay hindi alam ng Judge ang gawain niyang ito sapagkat pinahahalili niya ang Legal Researcher kapag may hearing na nagaganap na nasabing hukuman.

4. Pinahihintulutan din po niya ang isang Court Stenographer na si Ms. Siony Abcede na huwag magduty sa mga hearing na nagaganap sapagkat hati sila ng suweldo nito. Ang stenographer na ito ay hindi marunong magsteno na isang requirement para maging stenographer, pero siya ay isang pang permanent status. Paano po ito nangyari at pinayagan ng katas-taasang Hukuman. Di ba unfair naman ito sa tunay na mga stenographers?
5. Pinahihintulutan din po niya na magkaroon ng sugalan sa nasabing opisina sapagkat ang kanyang mga empleyadong lalaki ay kasali dito at iba pang empleyado ng ibang branch ng RTC, Malabon City.
6. Pinahihintulutan din po niya ang isa niyang empleyado na si Filipinas M. Yabut na pumasok sa gusto niyang oras at kung kailan gustong bumalik sa opisina araw-araw ito.
7. Pinahihintulutan din po niya ang isang staff ng Mediation na si Vaniss Asis na magdala ng lalaki at gamitin ang Chamber ng Judge upang sila ay duon manatili at maglambingan dito.
8. Lahat po na mga ebidensiyang pera [ay] ginagamit niya sa pansariling kapakanan at ang mga [shabu] na ebidensiya ay nawawala.<sup>[2]</sup>

The Office of the Court Administrator (OCA) indorsed the Letter-Complaint to Malabon RTC Executive Judge Emmanuel D. Laurea (Judge Laurea) for discreet investigation and report.<sup>[3]</sup>

### **Judge Laurea's Report**

In his May 26, 2010 Report,<sup>[4]</sup> Judge Laurea narrated the following findings:

1. On February 22, 2010, Stenographers Ma. Eloisa D. Bueno (Bueno) and Mary Ann R. Buzon (Buzon) of Malabon RTC, Branch 72 informed Judge Laurea that Atty. Cuenco required them to sign an agreement<sup>[5]</sup> of no objection to Abcede not going on duty as stenographer during court hearings. They expressed their reluctance to be a part of this irregularity; thus, they did not sign the agreement. When summoned, Abcede verbally admitted to Judge Laurea that she has no stenographic skills although she holds the position of a stenographer.<sup>[6]</sup>
2. Atty. Cuenco allowed some court employees to be absent or late for work and not reflect it in their DTRs.
  - a. First, she allowed Court Interpreter Cabanilla to attend classes during office hours, while the legal researcher took on Cabanilla's work. Judge Laurea instructed the Officer-in-Charge of the Security Guards (Security QIC), Elegio A. Adaza,<sup>[7]</sup> to verify Cabanilla's

attendance from April 28, 2010 to May 7, 2010. Judge Laurea was informed that Cabanilla did not report for work during the said period. However, the attendance logbook for March 31, 2010 to May 12, 2010 showed that Cabanilla reported for work during that period, except on May 6, 2010.<sup>[8]</sup>

Judge Laurea obtained a copy of Cabanilla's registration cards from Our Lady of Fatima University, and it revealed that his classes were from 8:00 a.m. to 5:00 p.m., Mondays to Fridays, for most part of the year, particularly during summer. However, he had a near perfect attendance in court for 2009. His February 2010 DTR showed that he was on leave for that month, except on February 1, 18, and 19.<sup>[9]</sup>

Judge Laurea observed that: (1) there were handwritten entries in Cabanilla's DTRs for March, April, July, and August 2009 and March 2010; (2) Cabanilla's signature in his March 2010 DTR appeared to be different from his usual signature; and (3) the entries were in Atty. Cuenco's handwriting.<sup>[10]</sup>

Judge Laurea opined that Atty. Cuenco cannot feign ignorance on the DTRs' irregularities and Cabanilla's absences for months and years, because she was the immediate supervisor. Judge Laurea found out that Cabanilla graduated in BS Nursing from Our Lady of Fatima University in April 2010. The university would not have allowed Cabanilla to graduate if he incurred several absences in school and in his hospital duties.<sup>[11]</sup>

- b. Second, Atty. Cuenco allowed Stenographer Yabut to come to and leave work anytime she pleased. Judge Laurea also asked the Security OIC to verify Yabut's attendance. It was discovered that Yabut was tardy and it was not reflected in her DTR. Judge Laurea noted that Yabut was the only stenographer who signed the agreement.<sup>[12]</sup>
3. Atty. Cuenco kept all criminal records locked up to the exclusion of Criminal Records Clerk-in-Charge Leo Angelo Proyido (Provido). The few individuals who had limited access were Abcede, De Guzman, and Asis. Judge Laurea noted that this is highly irregular considering that the Malabon RTC, Branch 72 is a special drugs court.<sup>[13]</sup>
4. Abcede and De Guzman attended to the accused and their families regarding the posting of bail and setting of hearings, which are all subject to Atty. Cuenco's approval. It was reported that: (a) favorable or speedy action and early settings were granted if consideration was paid; and (b) Atty. Cuenco and De Guzman took interest on archived cases, with De Guzman coordinating with the police for the arrest of the accused, who would later be released upon payment of consideration. Judge Laurea remarked that surveillance and entrapment are necessary to obtain evidence on these allegations.<sup>[14]</sup>

5. The allegation of gambling was unverifiable due to the lack of witnesses.<sup>[15]</sup>
6. Buzon narrated an incident when the then Presiding Judge Benjamin Aquino instructed her to get an evidence. However, Atty. Cuenco told her that it was missing. To avoid the judge's anger, they made it appear that the evidence was turned over to the Philippine Drug Enforcement Agency (PDEA). Buzon also reported that Atty. Cuenco removed actual buy-bust money from the records after the accused had been acquitted, and did not return to the police officers.<sup>[16]</sup>

### **The OCA's Report**

In its June 23, 2010 Report, the OCA found *prima facie* evidence to hold respondents administratively liable and place them under indefinite suspension pending resolution of this case. The OCA then assembled a team to conduct an inventory of the court exhibits due to allegations of evidence tampering and misappropriation.<sup>[17]</sup>

The OCA directed all respondents to comment on the Letter-Complaint and Judge Laurea's Report, while De Guzman was ordered to return to her mother unit, finding that her detail to the Malabon RTC, Branch 72 was not approved.<sup>[18]</sup>

In the July 21, 2010 Resolution, the Court approved and adopted the OCA's recommendations.<sup>[19]</sup> In the August 4, 2010 Resolution, the Court required the respondents to file their respective comments.<sup>[20]</sup> Atty. Cuenco, Cabanilla, Abcede, and Yabut moved for reconsideration of their indefinite suspension without pay,<sup>[21]</sup> which the Court denied with finality in its January 10, 2011 Resolution.<sup>[22]</sup>

### **Comments on the Letter-Complaint and Judge Laurea's Report**

1. Atty. Cuenco denied all the allegations against her. According to her, she only required the presentation of official receipts from the Office of the Clerk of Court before acting on the requests for certifications.<sup>[23]</sup> Her attendance and that of Cabanilla and Yabut are in order. It was the former presiding judge who signed Cabanilla's DTR beginning April 2009, and who directed the legal researcher to assume Cabanilla's duties as court interpreter whenever he was absent. Also, Cabanilla's school registration cards only showed the subjects enrolled and the schedule, but did not prove that he was present in school at all times. Cabanilla also applied for leaves of absence and half-days to attend his class.<sup>[24]</sup>

Atty. Cuenco admitted that Abcede had no stenographic knowledge; thus, she called for a meeting with the stenographers and they agreed that the rest of them would go on duty on rotational basis. She denied forcing anyone to sign an agreement, or that she had a share in Abcede's salary.<sup>[25]</sup>

Atty. Cuenco denied authorizing De Guzman to handle bail bonds as it was designated to the criminal records clerk-in-charge. Neither did De Guzman manage the court calendar and records,<sup>[26]</sup> nor had access to the criminal case records. All

criminal case records were kept in a locked cabinet, where she and the criminal records clerk-in-charge have the keys. Abcede had access to the records only because it was incidental to her duty.<sup>[27]</sup>

Atty. Cuenco denied taking the buy-bust money and the illegal drugs used as court exhibits, as they were turned over to the PDEA.<sup>[28]</sup> She also denied any gambling activities in the court, or that she converted it into a law office, or that she allowed Asis to stay in the chamber with her boyfriend.<sup>[29]</sup>

2. Cabanilla acknowledged that it was through the leniency of the former presiding judge that he was able to finish BS Nursing while employed as court interpreter. He admitted that since the school was nearby, there were instances when he left the court to attend classes and returned afterwards. It was also the former presiding judge who designated the legal researcher to act as court interpreter on occasions when he was absent. He claimed that he used up all his leave credits resulting to leave without pay from January to July 2010.<sup>[30]</sup>

He denied that Atty. Cuenco allowed him to tamper with his DTRs to make it appear that he was present in court while attending his classes. He also disagreed with the security guard's report that he was absent from April 28 to May 7, 2010, because he was on duty at that time and even signed ahead of his officemates. He explained that his 8:00 a.m. to 5:00 p.m. class schedule was for enrolment purposes only and was not followed. The classes were divided into three batches: 8:00 a.m. to 12:00 noon, 1:00 p.m. to 5:00 p.m., and 5:00 p.m. to 9:00 p.m. During his third and fourth year in school, he attended the last batch of class or none at all.<sup>[31]</sup>

He denied not returning to court on May 18, 2010 when he attended Atty. Cuenco's wedding reception. He maintained that he and Abcede returned immediately before 12:00 noon, but he forgot to sign in because he could not find the logbook. He only signed in when he returned to work several days later. He also denied taking part in any gambling activity in court.<sup>[32]</sup>

3. Abcede admitted that she initially knew stenography, but she eventually forgot it because the then presiding judge assigned her to do clerical work. After the latter's retirement, a staff meeting was held and she was told to resume her stenographic duties. She ignored it because it has been a long time since she performed such duties. It was agreed that the other stenographers would take over her duties on rotational basis. She denied admitting to Judge Laurea that she had no knowledge in stenography, and that she divided her salary with Atty. Cuenco. However, she confirmed that she and Cabanilla returned to court after attending the wedding reception of Atty. Cuenco, but their co-workers could not have seen them because they were in another room.<sup>[33]</sup>

4. Yabut corroborated the agreement among stenographers and she acceded to it so as not to disrupt the court operation. The court calendar would show that Abcede did not perform a single stenographic duty from 2002 to July 2010. She denied that she would only report for work if she has stenographic duty, and contended that she was neither late nor absent from April 28 to May 5, 2010.<sup>[34]</sup>

The records do not show that De Guzman and Asis filed their comments despite